

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RAMON ODIN LAGOS,)	
)	
Plaintiff,)	Case No. 1:09-cv-214-SJM-SPB
)	
v.)	
)	
RICARDO CRUZAGOSTO, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM JUDGMENT ORDER

Plaintiff's complaint in this civil rights action was received by the Clerk of Court on August 19, 2009 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on March 28, 2011 [44], recommends that the Defendants' motion to dismiss or, in the alternative, motion for summary judgment [38] be granted. Plaintiff was allowed fourteen (14) days from the date of service in which to file objections. Service was made on Plaintiff by certified mail at FCI-McKean, where he is incarcerated. To date, no objections to the Report and Recommendation have been filed. After de novo review of the complaint and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 19th Day of April, 2011;

IT IS ORDERED that Defendants' motion to dismiss or, in the alternative, motion for summary judgment [38] be, and hereby is, GRANTED. Inasmuch as the resolution of Defendants' motion relies on matters outside the pleadings, it shall be

treated as a motion for summary judgment pursuant to Federal Rule of Civil Procedure 56. Accordingly, JUDGMENT is hereby entered in favor of Defendants and against the Plaintiffs.

The Report and Recommendation of Magistrate Judge Baxter, filed on March 28, 2011 [44], is adopted as the opinion of this Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

cm: All parties of record

U.S. Magistrate Judge Susan Paradise Baxter